

REPRESENTATIVE FOR PETITIONER: Dora Wilson, Pro Se

REPRESENTATIVE FOR RESPONDENT: Robert Ewbank, County Attorney

**BEFORE THE
INDIANA BOARD OF TAX REVIEW**

Dora Wilson,)	Petition No.: 15-018-06-1-5-00011
)	Parcel: 15-01-20-400-036.000-018
Petitioner,)	
)	
v.)	
)	Dearborn County
Dearborn County Assessor,)	Logan Township
)	Assessment Year: 2006
Respondent.)	

Appeal from the Final Determination of the
Dearborn County Property Tax Assessment Board of Appeals

August 19, 2008

FINAL DETERMINATION

The Indiana Board of Tax Review (Board) has reviewed the facts and evidence presented in this case. The Board now enters its findings of fact and conclusions of law.

ISSUE

The subject parcel is a small piece of land that is contiguous to another parcel the Petitioner owns, but the other parcel is not part of this appeal. Did the Petitioner prove that the assessment should be reduced from \$1,100 because the market value-in-use is only \$300?

FINDINGS OF FACT AND CONCLUSIONS OF LAW

HEARING FACTS AND OTHER MATTERS OF RECORD

1. The subject property is a vacant tract of land measuring 0.14 acres.
2. On January 7, 2008, the Dearborn Property Tax Assessment Board of Appeals issued its determination that the 2006 assessment on the subject property is \$1,100. On February 8, 2008, the Petitioner filed a Form 131 Petition seeking the Board's administrative review of that determination and opted-out of small claims procedures. The Petitioner contends the assessed value should be \$300.
3. The Board's designated Administrative Law Judge, Paul Stultz, held the hearing on May 28, 2008, in Lawrenceburg. He did not conduct an on-site inspection of the property.
4. The Petitioner, Dora Wilson, and County Assessor Gary Hensley were sworn as witnesses and testified at the hearing.
5. The Petitioner presented the following exhibits:
 - Exhibit 1 – A drawing and variance request for subject property,
 - Exhibit 2 – Certification of dedication of plat of subject property,
 - Exhibit 3 – Notice of assessment for March 1, 2003, and the subject property record card that shows the 2001, 2002, and 2004 assessments,
 - Exhibit 4 – Ten photographs of subject property.
6. The Respondent did not offer any exhibits.
7. The following additional items are officially recognized as part of the record of proceedings:
 - Board Exhibit A – The Form 131 Petition,
 - Board Exhibit B – Notice of Hearing,
 - Board Exhibit C – Hearing Sign In Sheet.

SUMMARY OF THE PETITIONER'S EVIDENCE

8. The subject property is the shaded, pie-shaped piece of land shown on the survey. It has 15 feet of road frontage (the widest point) and narrows down to nothing. The parcel is too small to build on. Because of the size, it does not have any value or add value to the Petitioner's contiguous land.¹ *Wilson testimony; Pet'r Ex. 1.*
9. The subject property's assessed value was \$100 in 2001. The 2002 assessment originally was \$900, but after an informal hearing it was reduced to \$300. The assessment remained at \$300 until 2006 assessment, when it increased to \$1,100. The subject property is not worth more than \$300. *Wilson testimony; Pet'r Ex.3.*
10. The photographs show the subject property's use and its road frontage. *Wilson testimony; Pet'r Ex. 4.*

SUMMARY OF THE RESPONDENT'S EVIDENCE

11. The subject property measures 0.14 acres, but the assessment is based on only 0.10 acres after adjusting for the right of way. *Hensley testimony.*
12. The current assessment is calculated with a base rate of \$4,000 per acre for excess residential land. It is valued as excess residential land because it is contributory to the Petitioner's larger contiguous parcel. *Hensley testimony.*
13. The software model employed by the county to value residential excess acreage is programmed to use one acre increments. Given that that the land in question is 0.10 of an acre, the normal base rate of \$4,000 per acre is adjusted by a factor of 2.7. The assessment guidelines provide for an upward adjustment to the base rate for parcels smaller than the model increment. In this case, the adjusted base rate is \$10,800 per acre. Rounded to the nearest hundred, the assessment is \$1,100. *Hensley testimony.*

¹ The Petitioner owns a larger contiguous parcel that is not under appeal.

14. All land must be valued. The subject property was valued using the methodology accepted by the county and applied by the county's vendor. The methodology used by the vendor is the land value method provided in the assessment guidelines. *Hensley testimony*.

ANALYSIS

15. A Petitioner seeking review of a determination of an assessing official has the burden to establish a prima facie case proving that the current assessment is incorrect and specifically what the correct assessment would be. *See Meridian Towers East & West v. Washington Twp. Assessor*, 805 N.E.2d 475, 478 (Ind. Tax Ct. 2003); *see also, Clark v. State Bd. of Tax Comm'rs*, 694 N.E.2d 1230 (Ind. Tax Ct. 1998).
16. In making its case, the taxpayer must explain how each piece of evidence is relevant to the requested assessment. *See Indianapolis Racquet Club, Inc. v. Washington Twp. Assessor*, 802 N.E.2d 1018, 1022 (Ind. Tax Ct. 2004) (“[I]t is the taxpayer's duty to walk the Indiana Board . . . through every element of the analysis”).
17. Real property is assessed on the basis of its “true tax value,” which does not mean fair market value. It means “the market value-in-use of a property for its current use, as reflected by the utility received by the owner or a similar user, from the property.” Ind. Code § 6-1.1-31-6(c); REAL PROPERTY ASSESSMENT MANUAL at 2 (incorporated by reference at 50 IAC 2.3-1-2). There are three generally accepted techniques to calculate market value-in-use: the cost approach, the sales comparison approach, and the income approach. The primary method for assessing officials to determine market value-in-use is the cost approach. MANUAL at 3. To that end, Indiana promulgated a series of guidelines that explain the application of the cost approach. *See REAL PROPERTY ASSESSMENT GUIDELINES FOR 2002 – VERSION A*. The value established by use of the Guidelines, while presumed to be accurate, is merely a starting point. A taxpayer is permitted to offer evidence relevant to market value-in-use to rebut that presumption. Such evidence may

include actual construction costs, sales information regarding the subject or comparable properties, appraisals, and any other information compiled in accordance with generally accepted appraisal principles. MANUAL at 5.

18. Regardless of the approach used to prove the market value-in-use of a property, Indiana's assessment regulations provide that for the 2006 reassessment, a property's assessment must reflect its value as of January 1, 2005. An appraisal (or any other evidence of value) must have some explanation as to how the evidence demonstrates or is relevant to that property's value as of the required valuation date. *See Long v. Wayne Twp Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005).
19. Clearly, by itself the subject property has little value because of its size and shape. Nevertheless, the Petitioner must offer probative evidence establishing that the market value-in-use is \$300 rather than \$1,100. The prior assessments are of no probative value because each assessment and each tax year stands alone. *See Thousand Trails Inc. v. State Bd. of Tax Comm'rs*, 757 N.E.2d 1072, 1077 (Ind. Tax Ct. 2001).
20. The survey presented by the Petitioner shows that the subject property is a small pie-shaped strip contiguous to the Petitioner's other parcel. The Petitioner did not present any evidence demonstrating how much the size and shape of the subject property affected its market value-in-use. The Petitioner testified that the subject property's value should be \$300, but that evidence is conclusory. Such conclusory statements are not probative evidence and are insufficient to establish a prima facie case of error in assessment. *Whitley Products, Inc. v. State Bd. of Tax Comm'rs*, 704 N.E. 2d 1113, 1122 (Ind. Tax 1998).
21. The photographs show how the subject property is used and its road frontage; however, the photographs alone are not sufficient to establish that the current assessment is

excessive because the Petitioner did not offer any explanation of how or why these photographs supported her specific value claim of \$300.

SUMMARY OF FINAL DETERMINATION

22. The Petitioner failed to make a prima facie case. The Board finds in favor of the Respondent. The assessment will not be changed.

This Final Determination is issued on the date first written above.

Commissioner, Indiana Board of Tax Review

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- Appeal Rights -

You may petition for judicial review of this final determination under the provisions of Indiana Code § 6-1.1-15-5, as amended effective July 1, 2007, by P.L. 219-2007, and the Indiana Tax Court's rules. To initiate a proceeding for judicial review you must take the action required within forty-five (45) days of the date of this notice. The Indiana Tax Court Rules are available on the Internet at <<http://www.in.gov/judiciary/rules/tax/index.html>>. The Indiana Code is available on the Internet at <<http://www.in.gov/legislative/ic/code>>. P.L. 219-2007 (SEA 287) is available on the Internet at <<http://www.in.gov/legislative/bills/2007/SE/SE0287.1.html>>